UNITED STATES DISTRICT COURT EASTERN DISTRICT OF LOUISIANA

IN RE: TAXOTERE (DOCETAXEL) PRODUCTS LIABILITY LITIGATION	: : MDL NO. 2740
	: SECTION "H" (5)
THIS DOCUMENT RELATES TO:	: HON. JANE TRICHE MILAZZO MAG. JUDGE MICHAEL NORTH
All Cases	: ORDER ON DEADLINES FOR MARCH
	: 14, 2023 HEARING ON CMO 12A
	: PRODUCT IDENTIFICATION : DEFICIENCIES

The Court has reset the show cause hearing previously set on February 7, 2023 for March 14, 2023 at 10 a.m. pursuant to PTO 22A to address both Product ID and Plaintiff Fact Sheet deficiencies. *See* Minute Entry, Rec. Doc. 15498.¹ In accordance with Case Management Order No. 12A (entered July 24, 2018 amending the initial CMO 12 governing Product Identification entered on Jan. 12, 2018), Plaintiffs are required to "make a diligent, good faith, and documented effort" to determine Product ID information (¶ 2). Evidence presumed to be sufficient to establish Product ID is set forth at paragraph 6 of CMO 12A, and Plaintiffs are to upload the Product ID information to MDL Centrality (¶ 7). Any Plaintiff who fails to comply is subject to dismissal pursuant to PTO 22A (¶ 11). For any Plaintiff lacking Product ID information following compliance with Paragraphs 1-5 of CMO 12A, discovery limited in scope to determine Product

¹ Although this Order addresses issues related to the show cause hearing on Product ID, the March 14, 2023 show cause hearing will also address Plaintiff Fact Sheet deficiencies. On January 24, 2023, Defendants issued a Notice of Non-Compliance of cases subject to the February 7, 2023 Order to Show Cause hearing identifying cases with remaining PFS deficiencies under PTO 22A. (*See* Exhibits A and B to Rec. Doc. 15433.) The process and deadlines set forth in PTO 22A for responding to these deficiencies apply to these cases.

ID information is then authorized for a period of 120 days (¶ 12). If Product ID is not determined, any Plaintiff continuing to lack Product ID may then "be brought to the attention of the Court for appropriate adjudication" (¶ 12). In addition, the Addendum to CMO 12A entered on December 6, 2022 (Rec. Doc. 15287) identifies the documents outside the parameters of CMO 12A to be considered by the Court in adjudicating Product ID deficiencies and a 30-day time period for Plaintiffs to obtain the same.

On January 24, 2023, Defendants issued a Notice of Non-Compliance of cases with remaining CMO 12A deficiencies subject to the February 7, 2023 Order to Show Cause hearing. (*See* Exhibits C and D to Rec. Doc. 15433). To the extent a deficiency remains, consistent with this Court's previous orders, each Plaintiff identified on the Notice of Non-Compliance (Exhibits C and D to Rec. Doc. 15433) is **ORDERED** to comply with CMO 12A by obtaining Product ID information consistent with CMO 12A and/or the Addendum to CMOA, uploading such results to MDL Centrality, and dismissing all Defendants for whom she does not have Product ID.

In addition, on December 14, 2022, Plaintiffs' Co-Liaison Counsel provided Defendants a list of Plaintiffs who intend to seek reinstatement of their cases as described in the Addendum to CMO 12A. To the extent there remains a dispute as to whether a case is subject to reinstatement, the parties will continue to meet and confer and any remaining dispute shall be heard at the March 14, 2023 show cause hearing. (*See* Rec. Doc. 15287)

DEADLINES

The parties previously exchanged their respective positions on the evidence on January 12, 2023. The parties will exchange updated respective positions on the evidence by February 21, 2023, identifying any additional efforts to obtain Product ID and/or additional Product ID evidence obtained. Defendants will serve their 14-day list on February 28, 2023 in accordance with PTO 22A.

Documentation of unsuccessful efforts to obtain Product ID does not satisfy Plaintiff's obligations under this Order or CMO 12A, nor exempt a Plaintiff from dismissal for failure to establish Product ID.

On or before March 9, 2023, Defendants will provide final hearing lists to the Court identifying 1) those Plaintiffs objecting, the substance of their objections, and the parties' respective positions on the evidence submitted; 2) any additional Plaintiffs who do not plan to appear and object; 3) a listing of cases where a dispute remains as to reinstatement; and 4) any unresolved PFS deficiencies identified in Exhibit A and Exhibit B to Defendants' January 24, 2023 Notice of Non-Compliance (Rec. Doc. 15433).

New Orleans, Louisiana, on this 14th day of February, 2023.

M.OL

HOY. JANE TRICHE MILAZZO UNITED STATES DISTRICT JUDGE